

UNITED STATES OF AMERICA  
UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

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FRED REEVES,

Plaintiff,

Case No. 1:07-cv-371

v.

Honorable Wendell A. Miles

WILLIE O. SMITH et al.,

Defendants.

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**ORDER OF DISMISSAL**

This is a civil rights action brought by a state prisoner pursuant to 42 U.S.C. § 1983. On or about April 12, 2007, Plaintiff filed this *pro se* complaint (docket #1) against Defendants Basil Wolever, Kacy Datema, Willie Smith, Brad Mowatt, Donald Mawer, John Jaramillo and five John Does. In his complaint, Plaintiff states that the instant action is a refiling of *Reeves v. Wolever et al.*, No. 5:04-cv-141 (W.D. Mich.), which was dismissed without prejudice for lack of exhaustion in 2005. Plaintiff also filed an identical amended complaint on February 15, 2007, with the same allegations and Defendants, in *Reeves v. Wolever et al.*, No. 1:06-cv-896 (W.D. Mich.). It is unclear why Plaintiff filed the same action in the captioned case and in *Reeves*, No. 1:06-cv-896. As the Court ordered the amended complaint in *Reeves*, No. 1:06-cv-896 to be served upon Defendants, the

dismissal of the instant action without prejudice is appropriate. Therefore:

IT IS ORDERED that the captioned case be and hereby is DISMISSED without prejudice.

Dated: May 17, 2007

/s/ Wendell A. Miles  
Wendell A. Miles  
Senior U.S. District Judge